Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

Message Text

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PAGE 01 SINGAP 03853 290904Z
ACTION EA-12

INFO OCT-01 ISO-00 L-03 /016 W
----------001767 292319Z /12
R 290822Z AUG 78
FM AMEMBASSY SINGAPORE
TO SECSTATE WASHDC 0966

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EO 11652: N/
TAGS: BGEN, SN
SUBJECT: BAKER AND MCKENZIE APPLICATION

REF: SINGAPORE 3207

1. EMBASSY HAS RECEIVED ANOTHER CABLE FROM BAKER & MCKENZIE AS FOLLOWS:

"DEAR MR. AMBASSADOR:

" WE UNDERSTAND THAT YOU RECENTLY SENT A CABLE TO THE STATE DEPARTMENT RELATIVE TO BAKER AND MCKENZIE'S APPLICATION TO OPEN AN OFFICE IN SINGAPORE, PRESUMABLE IN RESPONSE TO OUR PRIOR CABLE. WE APPRECIETE YOUR PROMPT RESONSE TO THIS MATTER.

" THE SUBSTANCE OF YOUR MOST RECENT CABLE HAS BEEN COMMUNICATED TO US AND WE WOULD MAKE THE FOLLOWING COMMENTS:

"1. BAKER AND MCKENZIE HAS NEVER OPERATED A LAW OFFICE IN SINGAPORE, NOR HAS THE FIRM EVER APPLIED FOR PERMISSION TO OPEN AN OFFICE IN THE REPUBLIC OF SINGAPORE, UNTIL JANUARY OF THIS YEAR.

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PAGE 02 SINGAP 03853 290904Z

"2. WE ARE AWARE THATTHE ONLY FOREIGN LAW FIRM OPERATING IN SINGAPORE DOES SO ON A RESTRICTED BASIS, E.E., UNDER CONDITIONS WHICH DO NOT PERMIT IT TO ADVISE ON SINGAPORE LAW. AS WE HAVE INDICATED IN BOTH OUR APPLICATION PAPERS, THIS MODUS OPERANDI IS CONTRARY TO THE ESTABLISHED POLICY AND PRACTICE OF BAKER AND MCKENZIE. IN ALL JURISDICTIONS IN

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

WHICH WE MAINTAIN OFFICES WE DO SOIN AN ESSENTIALLY UNRESTRICTED BASIS, WHICH WE BELIEVE IS IN THE BEST INTERESTS OF OUR CLIENTS. FURTHERMORE, AS WE HAVE POINTED OUT, THIS TYPE OF STRUCTURE WOULD ENABLE US TO TRAIN YOUNG SINGAPOREAN LAWYERS ABROAD IN OTHER OFFICES OF THE FIRM UNDER OUR OVERSEAS TRAINING PROGRAM, WITH THEIR EVENTUAL RETURN TO A SINGAPORE OFFICE OF BAKER AND MCKENZIE. FINALLY, AS WE HAVE INDICATED IN OUR APPLICATION PAPERS AND WHICH IS THE PATTERN IN OTHER BAKER AND MCKENZIE OFFICES, THE FIRM ANTICIPATES THAT EVENTAULLY THE MANAGEMENT OF A SINGAPORE OFFICE WOULD BE UNDERTAKEN ENTIRELY BY SINGAPOREAN NATIONALS WHO ARE PARTNERS OF BAKER AND MCKENZIE.

"3. IT IS OUR BELIEF THAT THE PROPOSALS AS OUTLINED IN OUR APPLICATION PAPERS ARE CONSISTENT WITH SINGAPORE LAW AND IN THIS CONNECTION WE WOULD MAKE THE FOLLOWING OBSERVATIONS: (A) THE ILLINOIS PARTNERSHIP OF BAKER AND MCKENZIE WOULD NOT BE ENGAGED IN THE PRACTICE OF LAW IN SINGAPORE. ON THE CONTRARY, WE ENVISION AN ARRANGEMENT SIMILAR TO THAT WHICH WE HAVE IN SEVERAL OTHER JURISDICTIONS PURSUANT TO WHICH A LOCAL SINGAPORE PARTNERSHIP WOULD BE ORGANIZED IN SINGAPORE AND EVERY MEMBER OF THE LOCAL PARTNERSHIP WOULD BE AN ADMITTED SINGAPORE LAWYER.
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TO THE EXTENT THAT EXPATRIATE, NON-ADMITTED LAWYERS ARE PRESENT IN THE REPUBLIC, THEY WOULD ACT ONLY AS CONSULTANT TO THE LOCAL PARTNERSHIP. (B) THE PROFITS OF THE LOCAL, SINGAPORE PARTNERSHIP WOULD BE SHARED ONLY BY THE MEMBERS OF THE PARTNERSHIP QUALIFIED TO PRACTICE LAW IN SINGAPORE. IN THIS CONNECTION WE WOULD REFER YOU TO PAGES 12-15 OF OUR ORIGINAL SUBMISSION AND TO PAGE 5 OF OUR FEBRUARY 24, 1978 SUPPLEMENTAL SUBMISSION FOR A DETAILED DESCRIPTION OF A STRUCTURAL OUTLINE OF OUR PROPOSAL.
"WE HOPE THE FOREGOING POINTS CLARIFY ANY MISUNDERSTANDING THAT MAY HAVE EXISTED WITH RESPECT TO THE INTENTIONS OF BAKER AND MCKENZIE IN OPENING AN OFFICE IN SINGAPORE. JOHN C. KLOTSCHE, PARTNER, BAKER AND MCKENZIE."

2. SINCE GOS GAVE NO REASON FOR REJECTION OF BAKER & MCKENZIE'S APPLICATION, EMBASSY SOUGHT APPOINTMENT WITH CHAO HICK TIN, DEPUTY SENIOR STATE COUNSEL IN ATTORNEY GENERAL'S CHAMBERS, WHO SIGNED LETTER OF REJECTION, TO FIND OUT WHAT PROBLEMS GOS HAS WITH APPLICATION. CHAO, HOWEVER, IS AT PRESENT IN NEW YORK ON GOS LOS DELEGATION

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014

AND WILL BE THERE UNTIL MID-SEPTEMBER. WE ARE TOLD
THAT NO ONE ELSE IN ATTORNEY GENERAL'S CHAMBERS
IS ABLE TO INFORM US ABOUT CASE. WE THEREFORE SUGGEST
THAT BAKER & MCKENZIE SEEK APPOINTMENT WITH CHAO IN
NEW YORK TO CLARIFY ISSUE.

3. IN DISCUSSING MATTER WITH CHAO IN NEW YORK, WE BELIEVE
BAKER AND MCKENZIE'S PROSPECTS OF OBTAINING RECONSIDERATION OF ITS
APPLICATION WOULD BE IMPROVED IF THE FIRM WERE TO DEMONSTRATE
MAXIMUM FLEXIBILITY. WE SUGGEST, IN PARTICULAR, THAT
THE FIRM TAKE PAINS NOT TO CREATE THE INADVERTENT IMPRESSION (WHICH
WE FEEL IS PRESENT IN CERTAIN PASSAGES OF ITS APPLICATION) THAT IT
IS PROPOSING A FORM OF TECHNICAL ASSISTANCE TO THE UNDERDEVELOPED
SINGAPORE LEGAL PROFESSION AND WOULD BE DOING SINGAPORE A FAVOR BY
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PAGE 04 SINGAP 03853 290904Z

OPENING AN OFFICE HERE. IT WOULD ALSO BE A GOOD TACTIC TO AVOID
THE SUGGESTION THAT THE FIRM INTENDED TO TAKE ITS CASE TO THE PRIME
MINISTER. CHANCES OF THE PRIME MINISTER AGREEING TO SUCH A MEETING
ARE NIL (AS CHAO WILL BE AWARE) AND THE LIKELIHOOD THAT MORE SENIOR
OFFICIALS WOULD REVERSE CHAO'S DECISION IF THEY WERE APPROACHED OVER
HIS HEAD IS SMALL.
KNEIP

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 29 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978SINGAP03853
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780353-0210
Format: TEL
From: SINGAPORE
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1978/newtext/t19780812/aaaaakfb.tel
Line Count: 143
Litigation Code IDs:
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Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
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Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 SINGAPORE 3207
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1587394
Secure: OPEN
Status: NATIVE
Subject: BAKER AND MCKENZIE APPLICATION
TAGS: BGEN, SN
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/55cff759-c288-dd11-92da-001cc4696bcc
Review Markings:
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20 Mar 2014
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